



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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MONTEFIORE MEDICAL CENTER

Case No.

Plaintiff,

COMPLAINT

PLAINTIFF DEMANDS
TRIAL BY JURY

v.

LEXINGTON INSURANCE COMPANY,

Defendant,

08 CIV. 1607

Plaintiff, by their attorneys, WEG AND MYERS, P.C., as and for their Complaint allege as follows:

THE PARTIES

1. At all times hereinafter mentioned, plaintiff MONTEFIORE MEDICAL CENTER ("Plaintiff") was and still is a not for profit corporation organized and existing under and by virtue of the laws of the State of New York.

2. At all times hereinafter mentioned, defendant LEXINGTON INSURANCE COMPANY ("Defendant") was and still is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with its principal place of business at 100 Summer Street, Boston, MA 02110.

JURISDICTION

3. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1332 because there is complete diversity of citizenship between the parties and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

VENUE

4. The venue of this matter is appropriate in this district under 28 U.S.C. §1391(a)(2) because a substantial part of the events or omission giving rise to this claim occurred in this District and a substantial part of the property that is the subject of the actions situated in this District.

FACTS

5. Prior to February 21, 2007, Defendant, for good and valuable consideration, made and issued to Plaintiff a certain policy of insurance bearing policy number 509/DP541806 ("Subject Policy") with effective dates from November 1, 2006 to November 1, 2008, wherein and whereby it did insure Plaintiff's property and interests located 170 East Gun Hill Road, Bronx, New York ("Subject Premises") against all risks of loss.

6. At all times herein mentioned, Plaintiff was and is a member of the United Jewish Appeal – Federation of Jewish Philanthropies et al., a named insured on the subject policy of insurance.

7. The FOJP, a named insured on the Subject Policy, are insurance managers for Plaintiff.

8. At all times herein mentioned, Plaintiff was and is the owner of the Subject Premises.

9. At all times herein mentioned, Plaintiff maintained an insurable interest in the Subject Premises which was a scheduled location identified in the Subject Policy of insurance.

10. On or about February 21, 2007, the Subject Premises suffered a loss not excluded by the Subject Policy.

11. As result of the above mentioned loss to the Subject Premises, Plaintiff sustained damages in the amount of \$4,215,000.00

12. Although duly demanded by Plaintiff, Defendant has failed to indemnify Plaintiff for its loss.

13. Plaintiff has performed all of its obligations pursuant to the policy of insurance issued by Defendant and has performed all of the conditions precedent to coverage under the Subject Policy.

14. Defendant's failure to indemnify Plaintiff for the February 21, 2007 loss constitutes a breach of Defendant's obligations under the aforesaid policy of insurance.

15. By reason of that breach, Plaintiff has sustained damages in the amount of \$4,215,000.00.

WHEREFORE, plaintiffs demand judgment:

(a) against Defendant for breach of contract in the amount of \$4,215,000.00

WEG AND MYERS, P.C.

By:

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Docket No.

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SUMMONS AND COMPLAINT

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